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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,986	02/14/2001	Stephen E. Moorman	00242.00014	9562

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 03/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/781,986	MOORMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stephen J. Castellano	3727	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6</u> . | 6) <input type="checkbox"/> Other: _____                                    |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 13-16, 19-26, 31, 32, 35-40, 43 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Foy et al. ('255) (Foy).

Foy discloses a collapsible container with a base and hinged sidewalls and end walls.

For claim 1, a wall latching system is defined by a male latch member (projection 104) which extends from the sidewalls and a female latch member (groove 106) which extends within the end walls, a wall locking system is defined by the two uppermost locking tabs 68 on sidewall 16 (indicative of a plurality of first wall locking members on a first sidewall) and two uppermost delta shaped openings 84 on end wall 20 (indicative of at least one second wall locking member of the first end wall) as shown in Fig. 3 and a wall alignment system including a first member (one of the two lowermost delta shaped openings 84) extending inwardly towards an interior of the container from an end wall and a second member (the locking tab 68 which corresponds to the one lowermost delta shaped opening 84) extending from a sidewall as shown in Fig. 3 such that the first member 84 receives the second member 68 as the sidewall 16 pivots to an upright position.

For claim 23, the wall latching system and the wall alignment system are as discussed for claim 1, no wall locking system is necessary. The wall alignment system includes a first member (either delta shaped openings 84 or portions of the flange 83 that includes stop surfaces 86 and 88 and which surround the openings 84) extend away from an interior face of the end wall 20

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and toward an interior of the container and a pair of receiving members (locking tabs 68) extending away from an edge face that faces end wall 20 of the sidewall 16 and toward an interior of the container since one could traverse the locking tab from the exterior face of the sidewall towards the interior, the receiving members (locking tabs) forming an opening along the edge face that faces end wall 20 of the sidewall 16 for slidably receiving the first member when the sidewall and end wall are being to an upright position. This could be defined as a first interpretation of the wall alignment feature.

A second interpretation of the wall alignment system of claim 23 is defined as including a first member (locking tab 68) extend away from an edge face of the sidewall 16 and toward an interior of the container and a pair of receiving members (either delta shaped openings 84 or portions of the flange 83 that include stop surfaces 6 and 88 and which surround the openings) extending away from an interior face of the end wall 20 and toward an interior of the container, the receiving members forming an opening 84 along the interior face of the end wall 20 for slidably receiving the first member 68 when the sidewall and end wall are being to an upright position.

For claim 37, Foy discloses a hinging system which is separate from a support system, the support system includes support members and support receiving members. The end wall 20 and 22, as well as, the sidewalls 16 and 18, all include first and second ends having first and second end surfaces that extend perpendicular to the length of the respective end wall or sidewall. Although the hinge system includes similar parts as the support system, no portion of the hinge system overlaps with the support system and no portion of the support system overlaps with the hinge system. The hinge system includes a plural hinging members (two centermost

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tongues 27 as shown in Fig. 5) and a pivot axis as defined by rod 50 as it extends through hinge hole 48. The support system includes support members (either tongues 27 closest to the side edges of the wall or the portions separating grooves 29 closest to the side edges on the base) and support receiving members (either grooves 29 closest to the side edges on the base or the space between tongues 27 closest to the side edges of the wall, respectively). Note that the support member and the support receiving member doesn't need to include the entire tongue or groove but only that portion which will disengage when the wall is in the folded position.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Overholt et al. ('056) (Overholt) in view of Foy.

Overholt discloses a collapsible container with a base and hinged side walls and end walls, corresponding latching members (66, 76), corresponding locking system (86, 88) and corresponding aligning system (82, 84). Overholt discloses the invention except for the specifics of the alignment system, hinge system and support system. Foy teaches the alignment system, hinge system and support system. It would have been obvious to modify the alignment system, hinge system and support system in order to provide easier to use alignment system, a stronger hinge system and a more stable and stronger support system.

Claims 21, 35, 36 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foy ('255).

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Foy discloses the invention except for the exclusion of hinge support members and receiving members between the two outermost hinges. It would have been obvious to remove the intermediate hinge components should the strength of the two outermost hinges be deemed to be strong enough to carry the full load of the side wall or end wall.

Claims 7-9, 11, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foy ('255) in view of Lessard.

Foy discloses the invention except for the biased panel. Lessard teaches biased panel (36, 38, 46). It would have been obvious to modify the latching member to include a biased panel in order to make it easier to latch the side and end walls at their corner juncture with a biased panel latch on one wall which will snap acting latch to engage the catch member on the adjacent wall and making it possible to latch the walls without touching the latch, the latch is engaged through manipulation of the walls, only.

Claims 10, 12, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foy ('255) in view of Lessard as applied to claims 7, 11 and 27 above, and further in view of Overholt.

The combination discloses the invention except for the deformation prevention member. Overholt teaches a deformation prevention member as the wall behind the biased panel latch (83). It would have been obvious to add a wall behind the biased panel latch in order to prevent the latch from being pushed beyond the point of breakage.

Claims 17, 18, 33, 34, 41, 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foy ('255) in view of Foy ('065).

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Foy ('255) discloses the invention except for the stacking projections. Foy ('065) teaches stacking projections (62, 66, 68). It would have been obvious to add stacking projections in order to provide lock surfaces for preventing shifting movement that could topple a stack of containers.

Applicant's arguments with respect to claims 1-44 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 703-308-1035. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the


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organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
Stephen J. Castellano  
Primary Examiner  
Art Unit 3727

sjc  
March 4, 2003